

PLANNING & ZONING MINUTES

NOVEMBER 17, 2022

ATTENDEES: David Chillas, Chair
Morris Deputy, Town Manager
Frank Bailey, Fire Chief
Chuck McCausland
Jenn Parrish
Joe Pontak
Charles Roberts
Keith Thompson

AGENDA:

1. 1023 Bunker Hill Road – Conditional Use Permit request for warehouses in an M-I zoned area (Manufacturing-Industrial). CU-32-22. Tax Parcel No. 13-022.00-001.

Aaron Tappana with Panatoni Development Company and Alex Schmidt with Century Engineering presented the Conditional Use Permit request and the Preliminary Major Land Development Plan.

- 1023 Bunker Hill Road is approximately 75+/- acres, currently an agricultural field.
- Utilities are nearby.
- Access is available on Bunker Hill Road. DelDOT has indicated there are no issues and did not request any studies. However, at the request of Mayor and Council, a traffic study will be done.
- Per the site evaluation, there are no environmental concerns.
- A small patch of wetlands was delineated in the north corner.
- Approval for annexation and zoning the property M-I was received about a month ago.
- Elevations were presented.
- The building will be set back about 500 feet off the road, which exceeds code requirement.
- The site has easy access to 301.
- Two warehouses are proposed: one building +/-750,000 square-feet; the second +/- 275,000 square-feet.
- The entrance location (near the existing entrance) was coordinated with DelDOT.
- The plan complies with the Conditional Use requirements.

Chuck McCausland expressed concern with the entrance on Bunker Hill Road being so close to the 301 ramp. The morning school traffic sometimes backs up to Merrimac Avenue until about 10 a.m. and in the afternoon which will block the ramp. His other concern is a 24-hour operation with a truck entrance/exit located 35 to 40 feet from a 55+ residential development.

Mr. Schmidt said DelDOT recommended the entrance location. The traffic study will help clarify whether or not it will be an issue.

Jenn Parrish asked if a lot of travel is expected on Merrimac Avenue near South Ridge.

Mr. Schmidt said they did not anticipate any trucks using Merrimac. The envisioned truck route is Bunker Hill Road to Middletown-Warwick Road to 301. This type of business typically operates 24/7 and is not really noisy. Landscaping will also act as a noise buffer.

Aaron Tappana said the majority of truck trips usually happen between 10 a.m. and 2 p.m. He said he doesn't feel the school traffic in the morning will coincide with the peak for the trucks but it might coincide with some of the workers.

Ms. Parrish asked if trucks would have access to the facility at all times or would they have to park on Bunker Hill Road until it's open.

Mr. Tappana said trucks will be able to turn into the facility and would not stack on Bunker Hill Road.

Frank Bailey asked if the site lighting would face away from the residential area behind the site.

Mr. Schmidt said they would use cut-off lighting; a photometric plan will be done to make sure there is no spill-over onto the adjacent residential properties.

Joe Pontak commented that if Bunker Hill Road is a DelDOT road, then DelDOT will have to post "No Truck Parking" signs, not Middletown.

Morris Deputy said the Town can petition DelDOT for the approval to install signs.

Mr. Schmidt said they wouldn't have any objections to including that in their entrance plan.

Joe Pontak asked what business is going to occupy the buildings.

Mr. Tappana said there is no tenant at this time; the buildings are spec construction. Most likely, a high cube user will occupy the large building, not an Amazon type user. The smaller building could have a light manufacturing user that assembles components manufactured elsewhere.

Comments/questions from nearby residents:

- Can the Town consider adopting a "Dark Skies" ordinance?
- Posting signs will not guarantee trucks will not use Merrimac Avenue. Amazon trucks aren't supposed to use Wiggins Mill Road but they do.

It was pointed out that if the Town has a truck restriction ordinance, the MPD can enforce it.

Townsend residents should contact the State Police for truck issues regarding Green Giant Road and Wiggins Mill Road.

Moved by Keith Thompson and seconded by Charles Roberts to recommend Mayor and Council approve the Conditional Use Permit request for warehouses in an M-I zoned area (Manufacturing-Industrial). CU-32-22. Tax Parcel No. 13-022.00-001. Motion Carried 5 to 1. Chuck McCausland voted "Nay".

2. 1023 Bunker Hill Road – Preliminary Major Land Development Plan for a proposed warehouse with 795,600+/- square-feet and a proposed warehouse with 286,000+/- square-feet on 75 acres. Tax Parcel No. 13-022.00-001.

The Preliminary Major Land Development Plan was presented with the Conditional Use Permit request. Items were voted on separately.

Moved by Keith Thompson and seconded by Charles Roberts to recommend Mayor and Council approve 1023 Bunker Hill Road, Preliminary Major Land Development Plan for a proposed warehouse with 795,600+/- square-feet and a proposed warehouse with 286,000+/- square-feet on 75 acres. Tax Parcel No. 13-022.00-001. Motion Carried 5 to 1. Chuck McCausland voted "Nay".

3. The Highlands of Middletown – Re-Subdivision Plan for Phases 4 and 5 of The Highlands of Middletown, located north of the intersection of Cleaver Farm Road and Del. 299, east and west of Cleaver Farm Road and south of Villagebrook I. Tax Parcel No. 23-015.00-002.

Christopher Duke and Ryan Musacchio with Becker Morgan Engineers, and Jerry Heisler with the Reybold Group Developers presented the Re-Subdivision Plan for Phases 4 and 5 of The Highlands.

- The project, originally recorded in 2009, is a mixed-use residential neighborhood located on the east and west side of Cleaver Farm Road, north of Rt. 299 and south of Villagebrook.
- The total parcel is approximately 125 acres zoned R-3. The project proposes a total of 1242 dwelling units comprised of duplexes, apartments, stacked townhomes, a community center and daycare facility.
- Phases 4 and 5 consist of 20 duplexes and 130 stacked townhomes.
- The re-subdivision plan removes the alley adjacent to lots 197 through 206, in order to accommodate the landscape buffer requirements along the property line bordering the medical center. Those lots will be front-loaded instead of alley-loaded.
- The road stub connection to the medical center to the south (near lot 206) will be relocated to the east to provide a better future connection to the Pederson property.
- Per the request of Dove Run residents, a pedestrian only connection is proposed to Dove Run, instead of the original vehicular connection proposed at the round-about; the round-about will be removed.

Frank Bailey asked if eliminating the round-about means there will not be a connection to Dove Run at all. He asked if E. Lake Street would be extended to the development.

Mr. Duke said there will not be a vehicular connection to Dove Run, just a pedestrian connection between the developments.

Morris Deputy commented that development interconnections were popular 10 or 15 years ago and became very unpopular when neighborhoods actually started to be built.

He said the development will connect at E. Lake Street and New Street helping to create another east-west route from Broad Street to Silver Lake Road, once its complete.

Keith Thompson said he understands that the temporary connection at Cleaver Farm Road to New Street will be replaced when this project is completed.

Frank Bailey asked if the installation of the traffic circles on Cleaver Farm Road are part of Phase 4.

Jerry Heisler indicated there have been considerable discussions regarding the timing of the traffic circles and the inter-connection out to Lake Street. He said, as the developer, he would prefer to delay the cost, but in reality, the circles need to be built early in the project. They will be built as the project is being constructed and completed at the end of Phase 4 & 5. Cleaver Farm Road will be blocked and traffic will be diverted to the west side while the two inter-connects are being built. The inter-connection to New Street will be finished at a later date.

Frank Bailey said he can provide dimensions of their fire equipment and templates to be sure the traffic circles are large enough.

A resident asked what the pedestrian connection to Dove Run would look like and if the 2005 plan was still accurate showing dumpsters, etc.

Mr. Duke said it will be a paved, shared-use path, about ten-feet wide. Bollards will be installed on each end to prevent vehicles from having access.

Mr. Heisler explained the plan was first recorded in 1997 with several updates since then. The project will be built in phases and the plans will be updated. The buildings will have dumpsters, shielded and screened. Recycling containers will be available. Construction is planned to start next year.

Joe Pontak asked if the plan would be revised again or if this is the plan that will be built.

Mr. Heisler said it is his intention to move forward with this plan. However, if he comes up with a different idea or better way, it could be revised.

Moved by Chuck McCausland and seconded by Keith Thompson to recommend Mayor and Council approve The Highlands of Middletown, Re-Subdivision Plan for Phases 4 and 5 of The Highlands of Middletown, located north of the intersection of Cleaver Farm Road and Del. 299, east and west of Cleaver Farm Road and south of Villagebrook I. Tax Parcel No. 23-015.00-002. Motion Carried Unanimously.

4. Review Ordinance 23-11-01 for the withdrawal of the annexation approval of Tax Parcel No. 23-075.00-098 (504 Marl Pit Road) into the Town of Middletown.

Denis Hulme with Woodin Associates said the property was zoned industrial with New Castle County, and annexed into the Town about a year ago with a commercial zoning. The property will not be developed under C-3 zoning until water and sewer are available. The owner wishes to continue with his industrial operation until that time, and the only way to do that is to withdraw the annexation. The property will be brought back in when utilities are made available.

Morris Deputy explained that DNREC required zoning approval from the Town in order to issue the owner's required permits. The Town's zoning does not allow his current use so the owner decided to de-annex and meet the county's zoning.

Moved by Charles Roberts and seconded by Jenn Parrish to recommend Mayor and Council adopt Ordinance 23-11-01 for the withdrawal of the annexation approval of Tax Parcel No. 23-075.00-098 (504 Marl Pit Road) into the Town of Middletown. Motion Carried Unanimously.

5. Review Ordinance 22-11-02 to amend the Growth and Annexation Areas Map of the Town of Middletown Comprehensive Plan.

Tabled

6. Review Ordinance 22-11-04 for the annexation of Tax Parcel No. 14-010.00-022 (1270 Levels Road).

Richard Forsten represented the annexation request for Levels View Farms. Phil Toliver with MRA Engineering was also present.

- The property is the Rutkoske farm on Levels Road, consisting of approximately 171 acres. It is included in the update to the Comprehensive Plan for future annexation.
- R-3 Multi-Family is requested with the restriction that no apartments will be built.
- The farm house will be preserved; Mark Rutkoske intends to live there on a six or ten-acre parcel.
- This plan is for annexation only. The next step will be to select a developer; a Concept Plan and Preliminary Land Development Plan will be presented for review and approval at a later date.

Marilee Tally, Wiggins Mill Road resident, questioned the timing of road improvements.

Mr. Forsten explained that Levels Road is a State Road. An entrance permit will be required from DelDOT and they will require appropriate improvements to Levels Road, depending on the traffic expected to be generated. Each building permit will include a contribution to a traffic improvements fund administered by the Town.

Keith Thompson explained the issue is that future growth can be projected, but there is no guarantee it will happen or when. If improvements are built and the growth doesn't happen, all that money and time is wasted. That's usually why DelDOT is meeting needs as they happen. He said he was on the County's Redistricting Committee last year and pointed out redistricting is done with the current population as well, and not projected population.

Jenn Parrish commented that she was on the staff of the Summit Transportation Committee and added that there are impact studies and traffic studies done prior to developments going in. She said citizens can contact legislators and DelDOT and ask for an impact study.

Mr. Forsten remarked there could be an expansion of the Strawberry Lane and Levels Road intersection, and possibly improvements to the Gear's Corner and Levels Road intersection. Those discussions will happen when the projects move forward with actual plans.

Barbara Dixon asked what size lots are planned and how many homes are proposed.

Mr. Forsten responded that it will depend on the developer and type of project he wants to build; possibly a 55+ community, single family homes, or a mix, but no apartments. The annexation request includes a condition that apartments will be restricted.

Moved by Jenn Parrish and seconded by Joe Pontak to recommend Mayor and Council approve Ordinance 22-11-04 for the annexation of Tax Parcel 23-010.00-022 (1270 Levels Road) as presented, with no apartments to be built. Motion Carried Unanimously.

7. Review Ordinance 22-11-05 for the annexation of Tax Parcel No. 14-011.00-007 (380 Green Giant Road).

Richard Forsten presented the annexation request for R Acres. Phil Toliver with MRA Engineering was also present.

- The farm is approximately 350 acres located south of the Estates of St. Anne's on Green Giant Road.
- The property is included in the Update to the Comprehensive Plan for future annexation.
- Tonight's request is for annexation only. A Concept and Preliminary Land Development Plan will be presented at a later date for review and approval; traffic improvements will also be discussed.
- The annexation request includes a condition that apartments will be restricted.

Barbara Dixon, Wiggins Mill Road resident, said her property borders this property. She asked what is going to be built and what is the proposed lot size. She said her yard gets flooded now and expressed concern with additional runoff. She asked if a berm would be installed between her property and the new development.

Mr. Forsten said he anticipates it will be a combination of 55+, single family and townhouses. He said the lot sizes are not known yet and won't be determined until the type of development is decided. Townhouses and duplexes have smaller lots than single family houses.

He said the runoff should be better with the development of this property because of the stormwater management regulations. The developer is required to capture the runoff and release it more slowly over a period of time, with the construction of dry ponds, wet ponds and infiltration systems. The regulations do not allow any increase of stormwater runoff during a 24-hour period. He said it's too early to discuss a berm and suggested she come back when the Land Development Plans are presented.

A resident asked when construction would start.

Mr. Forsten said this is just the annexation stage. The Land Development Plans have to be designed and go through the Town for approval, as well as DNREC and DelDOT approvals. He said his guess would be that construction would not start until possibly spring of 2024. That time frame would also apply to the Rutkoske property presented for annexation.

A resident from the area said they were told the property would not be developed and asked when they should come back to discuss planting a tree barrier to protect their view.

Mr. Forsten advised the resident to check the Town's website for advertised agendas and offered to personally send a notice.

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Kristen Krenzer informed the residents that anyone can sign up on the Town's website to receive all agendas.

Moved by Keith Thompson and seconded by Chuck McCausland to recommend Mayor and Council approve Ordinance 22-11-05 for the annexation of Tax Parcel No. 14-011.00-007 (380 Green Giant Road) as presented, with no apartments to be built. Motion Carried Unanimously.

Moved by Joe Pontak and Chip Roberts to adjourn. Motion Carried Unanimously.

We believe these minutes accurately reflect what transpired; however, we will appreciate any comments involving a different understanding of what occurred. Unless we are notified in writing to the contrary within 10 days after receipt, we will assume all in attendance concur with the accuracy of this transcription.

Respectfully Submitted,

Morris Deputy, Town Manager

Ry 11/22/22

Cc: Mayor & Council
P & Z Members
Verdantas
All Attendees